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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,115	11/07/2001	Andreas Buos	085874-0381	4653

22428 7590 08/25/2005

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

DABNEY, PHYLESHA LARVINIA

ART UNIT	PAPER NUMBER
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2646

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,115

Applicant(s)

BUOS ET AL.

Examiner

Phylesha L. Dabney

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 14-16, 18, 23-26 and 31-45 is/are rejected.
- 7) ☒ Claim(s) 10-13, 17, 19-22 and 27-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the response filed on 24 January 2005 in which claims 1-45 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term "generally" in claims 1, 4, 15, and 26, is a relative term, which renders the claim indefinite. The term "generally" (page 13 of the specification) is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Since the term generally (defined-without regard to specific details or exceptions) does not include or exclude any particular range, and these claims and/or specification fails to teach a means, such as a specific mass or any other pertinent parameters by which to ascertain the specific location of the center of mass for the applicant's magnetic assembly, then the scope of the invention can not be reasonable apprised. The rejection of the claims utilizing Yamada follows below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2646

Claims **1-4, 6, 9, 14-15, 18, and 23-26** are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al (GB 2-027-316 A).

Regarding claims **1-4, 6, 9, 14-15, 18, and 23-26**, Yamada teaches an inertial exciter for an acoustic radiator (15a), the exciter comprising: a massive member (9-11); a coupler (2, 4; fig. 6: 2, 3) adapted for attachment to the acoustic radiator (page 3, column 2 lines 67-75) and adapted for relative movement with respect to the massive member; a motor (massive member plus voice coil assembly, 15-16) for effecting the relative movement of the coupler and the massive member; and a suspension (6) for supporting the massive member relative to the coupler; wherein the suspension acts in a plane *generally* passing through the center of mass of the massive member, thereby reducing any moment acting on the suspension.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **5, 7-8, 16, and 31-45** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al (GB 2-027-316 A).

Regarding claims **5, 7-8, and 16**, Yamada teaches the spider formed of elastic/polymeric material instead of corrugated foil of metal or an arm type cantilever. However, the examiner takes official notice that it is known to construct spiders of various materials and structures

Art Unit: 2646

including corrugated, with arms, metal, cloth, and/or polymeric material for beneficial affecting the frequency response.

Regarding claims **31-32, and 37-41**, Yamada teaches an exciter (figs. 1-45) attached to the base plate (2) in a repeatedly engageable manner (18, screw holes). Yamada does not specifically teach a means for attaching the base plate to an acoustic radiator as being of any means of attaching, including non-repeatedly engageable manner. However, since Yamada allows the base plate (2) to be attached to the radiator (15a) directly or indirectly (page 3 column 2 lines 67-70) and it is known to use attachment means, such as adhesive glues, to secure exciters to base plates to minimize distortion from movement, then it would have been obvious to one of ordinary skill in the art at the time the invention was made to use any means including non-repeatedly engageable adhesive glue to secure the base plate to the radiator of Yamada for the reason stated above.

Regarding claims **33-34, and 42-43**, Yamada teaches the exciter is engageable with the base plate via a threaded connection (18, screw hole).

Regarding claims **35-36, and 44-45**, Yamada does not teach including a locking device for locking the connection. However, the examiner takes official notice that it is known to use a screw nut on the end of a screw for tightening and securely joining components together. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a locking device, such as a screw nut, on the screw securely joining components and preventing distortion.

Allowable Subject Matter

Claims 10-13, 17, 19-22, 27-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

With respect to the 102 rejection, the examiner disagrees with the applicant's statements because the term "generally" in claims 1, 4, 15, and 26, is a relative term which renders the claim indefinite. The term "generally" (page 13 of the specification) is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Since the term generally, which is defined as "without regard to specific details or exceptions", does not include or exclude any particular range, and these claims and/or specification fails to teach a means, such as a specific mass or any other pertinent parameters by which to ascertain the specific location of the center of mass for the applicant's magnetic assembly, the scope of the invention can not be reasonably apprised. Therefore, the rejection of the claims utilizing Yamada is maintained.

With respect to the 103 rejection of independent claims 31 and 38, the examiner has amended the reference numerals above.

Art Unit: 2646


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 20, 2005


PLD


SUHAN M
PRIMARY EXAMINER